IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

OurPet's Company, *Plaintiff,* *v.* **Arjan Impex,** *Defendant.*	Case No. 1:13-cv-02550-PAG Judge Patricia A. Gaughan **REPORT OF PARTIES' PLANNING MEETING UNDER FED. R. CIV. P. 26(f), L.R. 16.3(b)(3), and LPR 2.1**

Further to the telephonic conference with the Court on February 28, 2014, the parties submit this modified parties' planning report to set forth the schedule in further detail.

1. Pursuant to Fed. R. Civ. P. 26(f) and L.R. 16.3 (b)(3) and L.P.R. 2.1, a meeting was held on February 25, 2014, and was attended by:

- David Welling, Counsel for Plaintiffs OutPet's Company
- Brandon White, Counsel for Defendants Arjan Impex

2. The parties do/ **do not** consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

3. **Scheduling**

a. Proposed Schedule:

Event	Due Date
Exchange of initial disclosures [FRCP 26]	March 7, 2014
Plaintiff to serve infringement contentions and accompanying document production [LPR 3.1, 3.2]	March 31, 2014
Defendant to serve non-infringement contentions and accompanying document production [LPR 3.3, 3.4]	April 30, 2014
Defendant to serve invalidity and unenforceability contentions and accompanying document production [LPR 3.5, 3.6]	June 3, 2014

Event	Due Date
Exchange of initial claim terms for construction [LPR 4.1(a)]	June 18, 2014
Plaintiff to serve validity and enforceability contentions [LPR 3.7]	June 23, 2014
Telephonic status conference with the Court	June 25, 2014 9:00 a.m.
Disclosure of claim construction expert(s) and report(s), if any [LPR 4.3(a)]	July 3, 2014
Exchange of final claim terms for construction [LPR 4.1(c)]	July 8, 2014
Disclosure of rebuttal claim construction expert(s) and report(s), if any [LPR 4.3(b)]	July 18, 2014
Exchange of proposed constructions and supporting evidence [LPR 4.2(a), (b)]	July 23, 2014
Last day to complete expert claim construction depositions [LPR 4.3(c)]	July 23, 2014
Exchange of final claim constructions [LPR 4.2(c)]	July 28, 2014
Opening claim construction submissions [LPR 4.4(a)]	August 22, 2014
Disclosure of reliance on advice of counsel [LPR 4.8]	September 1, 2014
Responsive claim construction submissions [LPR 4.4(b)]	September 22, 2014
Joint claim construction and prehearing statements [LPR 4.5]	September 26, 2014
Claim construction hearing [LPR 4.6]	At the Court's convenience
Plaintiff to serve final infringement contentions [LPR 3.10(b)]	15 days after claim construction hearing pursuant to LPR 4.6
Close of fact discovery [LPR 4.7]	30 days after claim construction hearing pursuant to LPR 4.6

Event	Due Date
Defendant to serve final non-infringement contentions and final invalidity and unenforceability contentions [LPR 3.10(c)]	30 days after claim construction hearing pursuant to LPR 4.6
Post-claim construction status conference [LPR 4.7]	Within 30 days of claim construction hearing pursuant to LPR 4.6 at the Court's convenience
Plaintiff to serve final validity and enforceability contentions [LPR 3.10(d)]	45 days after claim construction hearing pursuant to LPR 4.6
Exchange of opening expert reports [LPR 5.1(b)]	60 days after issuance of the Court's claim construction ruling
Exchange of responsive expert reports [LPR 5.1(c)]	30 days after exchange of opening expert reports pursuant to LPR 5.1(b)
Completion of expert discovery [LPR 5.2]	40 days after exchange of responsive expert reports pursuant to LPR 5.1(c)
Deadline for dispositive motions	10 days after completion of expert discovery pursuant to LPR 5.2
Trial	At the Court's convenience

b. If the parties are advocating a departure from the dates set forth in the Patent Local Rules, set forth the basis for said departure:

The basis for the deviation from the Local Patent Rules is to facilitate further settlement discussions.

4. Anticipated Motions

a. The parties anticipate filing the following motions:

i. **Preliminary Injunction:** Not anticipated at this time.

ii. **Motion to add or substitute parties:** Not anticipated at this time.

iii. **Other:** Not anticipated at this time.

b. The following issues may be the proper subject of an early motion for summary judgment or partial summary adjudication:

i. **Inventorship or indefiniteness:** Not anticipated at this time.

ii. **Invalidating sale, offer for sale or display:** Not anticipated at this time.

iii. **Other:** Defendant Arjan Impex believes early summary judgment of invalidity due to functionality and non-infringement may be appropriate with respect to the asserted design patent.

5. Nature of Dispute

a. **Describe the field of the claimed invention:** The claimed invention relates to non-slip pet bowls.

b. **Claims asserted:** All claims.

c. The parties anticipate requesting that the Court construe approximately 2-3 claim terms.

d. **Describe the allegedly infringing activity or product**: The allegedly infringing product is Arjan Impex's Peerless Pet Premium Bowl with rubber base identified in the Complaint.

e. **Describe any potentially non-fringing alternative designs:** Without conceding that any Arjan Impex product infringes any claim, Arjan Impex believes a bowl with a rubber base that does not extend to the sides of the bowl would be a non-infringing alternative design.

f. The parties have/**have not** stipulated that the above-described designs do not infringe the patents in issue.

6. Discovery

a. If the parties anticipate needing to propound interrogatories and/or take depositions in excess of the number provided in the Federal Rules of Civil Procedure, set forth the proposed limit and basis for the request:

The parties do not anticipate exceeding the discovery limitations set forth in the Federal Rules of Civil Procedure.

b. The parties do/ **do not** plan to submit an alternative proposed protective order for adoption by the Court.

c. Identify any issues the Court should be aware of with respect to the confidentiality concerns of the parties:

If Plaintiff OurPet's Company's patent prosecution counsel will be included under the Protective Order, Defendant Arjan Impex may seek a patent prosecution bar. The parties will meet and confer in good faith should this issue arise.

8. Claim Construction.

The parties will submit simultaneous briefs regarding any disputed claims construction issues consistent with the Local Patent Rules.

9. The parties **have**/have not consented, pursuant to Fed.R.Civ.P. 5(b)(2)(E), to the electronic exchange of pleadings, notices, discovery, and other mandated disclosures not otherwise served electronically via the Court's electronic filing system.

10. The parties **have**/have not discussed settlement and the appropriateness of Alternative Dispute Resolution.

Date: February 28, 2014

/s/ David A. Welling

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